

FEB 21 1980

MICHAEL RODAK, JR., CLERK

APPENDIX

IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-703

BERNARD CAREY, as State's Attorney
of Cook County, Illinois,

Appellant,

—vs—

ROY BROWN, et al.,

Appellees.

ON APPEAL FROM THE UNITED STATES COURT
OF APPEALS FOR THE SEVENTH CIRCUIT

JURISDICTIONAL STATEMENT FILED OCTOBER 31, 1979
PROBABLE JURISDICTION NOTED JANUARY 7, 1980

IN THE
Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-703

BERNARD CARRY, as State's Attorney
of Cook County, Illinois,

Appellant,

—vs—

ROY BROWN, et al.,

Appellees.

ON APPEAL FROM THE UNITED STATES COURT
OF APPEALS FOR THE SEVENTH CIRCUIT

TABLE OF CONTENTS

	PAGE
Chronological List of Relevant Docket Entries	1a
Plaintiffs' Amended Complaint for Declaratory Judgment and Preliminary and Permanent Injunction and Exhibit, Filed April 7, 1978	2a
Affidavits of Plaintiffs Vivian Buckhoy, Joan Raisner, David Smith, Finley Campbell, Roy Brown, Filed June 7, 1978	13a-20a
Plaintiffs' Exhibit, Article <i>Chicago Sun-Times</i> , Friday, May 12, 1978, Attached to Plaintiffs' Memorandum in Opposition to Motion to Dismiss, Filed June 7, 1978 ..	21a, 22a
Opinion of District Court, Filed September 27, 1978	J.S. App. 11a
Opinion of Court of Appeals, Filed August 2, 1979	J.S. App. 1a
Judgment of Court of Appeals, Filed August 2, 1979	J.S. App. 10a

The opinions of the District Court and the Court of Appeals and the Judgment of the Court of Appeals have been omitted in printing this appendix because they were printed in the appendix to the Jurisdictional Statement for Appellant Carey.

CHRONOLOGICAL LIST OF RELEVANT
DOCKET ENTRIES

- March 24, 1978— Plaintiffs' original Complaint filed in United States District Court for the Northern District of Illinois.
- April 7, 1978— Plaintiffs' Amended Complaint filed.
- August 8, 1978— Plaintiffs' Motion for Summary Judgment filed.
- August 23, 1978— Defendant Carey's Cross-Motion for Summary Judgment filed.
- September 27, 1978— Judgment of District Court filed granting Defendant Carey's Cross-Motion for Summary Judgment.
- October 27, 1978— Plaintiffs' Notice of Appeal filed.
- August 2, 1979— Opinion and Judgment of Court of Appeals for the Seventh Circuit filed.

IN THE UNITED STATES DISTRICT COURT
For The Northern District Of Illinois
Eastern Division

ROY BROWN, FINLEY CAMPBELL, VICKI CAMP-
BELL, STEVE CARL, JOAN RAISNER, IRMA SAU-
CEDO, KAREN SHOLL WEINER, DAVID SMITH,
LAWANDA SMITH, MARK SMITH, JULIANE SOU-
CHEK, BRANDA STADEL CARL, MARSHA VIHON,
HOWARD WEINER, RICHARD WEST, and the COM-
MITTEE AGAINST RACISM, an unincorporated asso-
ciation, on their own behalf and on behalf of a class
similarly situated,

Plaintiffs,

vs.

WILLIAM J. SCOTT, as Attorney General of Illinois,
BERNARD CAREY, as State's Attorney of Cook Coun-
ty, Illinois, MICHAEL SPIOTTO, as Acting Superin-
tendent of the Police Department of the City of
Chicago, and WILLIAM CRAVEN, as a Lieutenant
in the Police Department of the City of Chicago,

Defendants.

No. 78 C 1105

AMENDED COMPLAINT FOR DECLARATORY
JUDGMENT AND PRELIMINARY AND
PERMANENT INJUNCTION

Plaintiffs, Roy Brown, Finley Campbell, Vicki Camp-
bell, Steve Carl, Joan Raisner, Irma Saucedo, Karen Scholl
Weiner, David Smith, Lawanda Smith, Mark Smith, Juliane
Soucek, Branda Stadel Carl, Marsha Vihon, Howard
Weiner, Richard West, and the Committee Against Racism,
an unincorporated association, individually and as repre-
sentatives of a class, by their attorneys, Ellyn A. Hersh-
man, Michael P. Seng and Edward Burke Arnolds, com-
plain of defendants, William J. Scott, at Attorney General
of Illinois, Bernard Carey, as State's Attorney of Cook
County, Illinois, Michael Spiotto, as Acting Superintendent
of the Police Department of the City of Chicago, and Wil-

liam Craven, as a lieutenant in the Police Department of
The City of Chicago, as follows:

1. This is a civil action arising under Section 1983 of
Title 42, United States Code. Plaintiffs bring this action,
on their own behalf and on behalf of all others similarly
situated, to have Article 21.1 of the Illinois Criminal Code,
"Residential Picketing," *Ill. Rev. Stat.*, Ch. 38, §21.1 *et*
seq. (hereinafter sometimes the "Illinois Residential Picket-
ing Statute"), declared unconstitutional under the First
and Fourteenth Amendments to the Constitution of the
United States, and to have the defendants preliminarily
and permanently enjoined from enforcing it.

JURISDICTION

2. The jurisdiction of this Court arises under Title 28
U.S.C., Sections 1343, 2201, 2202 and 1651, Title 42 U.S.C.,
Section 1983, and the First and Fourteenth Amendments to
the Constitution of the United States.

PARTIES

3. Plaintiffs are as follows: Plaintiffs Roy Brown, Fin-
ley Campbell, Vicki Campbell, Steve Carl, Joan Raisner,
Irma Saucedo, Karen Sholl Weiner, David Smith, Lawanda
Smith, Mark Smith, Juliane Soucek, Branda Stadel Carl,
Marsha Vihon, Howard Weiner and Richard West (here-
inafter sometimes the "individual" plaintiffs) are all citi-
zens of the United States and the State of Illinois, and
all reside in the County of Cook, City of Chicago. Plain-
tiffs Roy Brown, Finley Campbell, David Smith and La-
wanda Smith are black. Plaintiff Irma Saucedo is brown.
The other individual named plaintiffs are white. All the
plaintiffs are actively working to achieve equality among

the races and civil rights for all persons, and to end discrimination. All the individual plaintiffs are members of the Committee Against Racism.

(b) Plaintiff Committee Against Racism (hereinafter "CAR") is an unincorporated multi-racial association of more than 100 persons which has as its purpose the abolition of racism. To achieve this purpose, CAR members often engage in First Amendment-protected activity, including picketing.

(c) All the individual plaintiffs except Joan Raisner and David Smith have been arrested for, and found guilty of, violating the Illinois Residential Picketing Statute. These plaintiffs (hereinafter sometimes the "Arrestees") do not seek to attack collaterally their former convictions, and no prosecutions are now pending against them under the Illinois Residential Picketing Statute.

(d) Plaintiff David Smith engaged in exactly the same conduct for which the Arrestees were prosecuted under the Illinois Residential Picketing Statute, but he himself was not arrested or charged.

(e) Plaintiff Joan Raisner has not engaged in conduct purportedly prohibited by the Illinois Residential Picketing Statute, and she has not been arrested or prosecuted therefor, but she and the other members of CAR wish to engage in such conduct in the future.

4. Plaintiffs bring this action on their own behalf and on behalf of all other persons similarly situated, pursuant to Rule 23(b) of the Federal Rules of Civil Procedure. The class is so numerous that joinder of all members is impracticable; there are questions of law or fact common to the class; the claims or defenses of the representative parties are typical of the claims or defenses of the class;

and the representative parties will fairly and adequately protect the interest of the class. In addition, defendants have acted on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.

5. Defendants are as follows:

(a) Defendant Scott is the Attorney General of the State of Illinois. As such he is responsible for enforcing the laws of said state.

(b) Defendant Carey is the State's Attorney of Cook County, Illinois. As such he is responsible for advising the Police Department of the City of Chicago as to violations of Illinois Statutes and for the prosecution of persons charged with such violations.

(c) Defendant Spiotto is the Acting Superintendent of the Police Department of the City of Chicago. As such he is responsible for enforcing the laws of the State of Illinois within said city.

(d) Defendant Craven is a lieutenant in the Chicago Police Department assigned to the 9th Chicago Police District. As such, he is and was responsible for enforcing the laws of the State of Illinois within the said district. On information and belief, the defendant Craven is regularly, and was at all times hereto pertinent, Acting Watch Commander for the 9th District.

(e) At all times hereto pertinent, defendants were acting under color of the statutes, customs or usages of the State of Illinois.

FACTS

6. On Tuesday, September 6, 1977, at about 6:15 p.m., several members of CAR, including the Arrestees and David Smith, went to 3238 S. Union in the City of Chicago, at which address Michael A. Bilandic, the Mayor of the City of Chicago, maintains his residence, to picket peacefully on the public sidewalk in front of the Mayor's residence in protest of the Mayor's failure to take a public position regarding the busing of school children to achieve racial integration (hereinafter referred to simply as "busing").

7. Shortly after they arrived, the picketers were informed by the defendant Craven that they were prohibited under the Illinois Residential Picketing Statute from picketing a private residence and that they would have to leave the premises.

8. When the picketers asserted their right to picket and refused to leave, four of them were arrested. Most of the other picketers, including the Arrestees but excluding David Smith, then left the vicinity of Mayor Bilandic's residence and went to the 9th-District station house at 35th and Lowe streets in Chicago to picket in protest of the four arrests. The picketers were told by a 9th-District police officer that they could picket the police station as long as they kept moving and did not block the sidewalk.

9. Shortly thereafter, the defendant Craven arrived and, along with other Chicago police officers, took the Arrestees into custody for having previously picketed the Mayor's residence.

10. The defendant Craven subsequently signed formal complaints charging the plaintiffs with Disorderly Conduct and Unlawful Residential Picketing. The Unlawful Residential Picketing complaints each alleged as follows:

"[NAME] has, on or about 6 September 1977 at 3238 South Union committed the offense of Unlawful Residential Picketing in that he knowingly did picket a private residence, not used as a business, to wit: 3238 South Union Avenue, Chicago, Ill. in violation of Chapter 38 Section 21.1-2 of the Illinois Revised Statutes.

(signed) Lieut. William Craven"

11. On October 18, 1977, the Arrestees appeared in Branch 46 of the Circuit Court of Cook County, Illinois, before the Honorable John F. Reynolds, a judge of that court, where pursuant to a plea agreement previously entered into between Arrestees' attorneys and an Assistant State's Attorney of Cook County, the Arrestees pleaded guilty to the charges of Unlawful Residential Picketing and the Disorderly Conduct charges were dismissed.

12. The following sentences were imposed:

- (a) Plaintiffs Finley Campbell, Vicki Campbell, Branda Stadel Carl, Irma Saucedo, Karen Sholl Weiner, Lawanda Smith, Mark Smith, Julianne Soucek and Marsha Vihon were sentenced to six months' supervision pursuant to *Ill. Rev. Stat.*, Ch. 38, §1005-6-3.1. This period of supervision terminated on March 14, 1978.
- (b) Plaintiffs Roy Brown, Steve Carl, Howard Weiner and Richard West were sentenced to one year's supervision, also pursuant to *Ill. Rev. Stat.*, Ch. 38, §1005-6-3.1. The one year period of supervision will end on October 18, 1978.

13. On information and belief, defendants intend to continue to enforce the Illinois Residential Picketing Statute.

14. Plaintiffs wish to engage again in residential picketing to demonstrate in Chicago neighborhoods their concern

for racial equality, civil rights and racial integration, but their right to do so is chilled by the threat of enforcement of the Illinois Residential Picketing Statute. Plaintiffs must choose between intentionally flaunting state law or foregoing what they believe to be constitutionally protected activity in order to avoid becoming enmeshed in another criminal proceeding.

15. The Illinois Residential Picketing Statute provides, *Ill. Rev. Stat.*, Ch. 38, §21.1:

ARTICLE 21.1 RESIDENTIAL PICKETING

§21.1-1. Legislative finding and declaration. The Legislature finds and declares that men in a free society have the right to quiet enjoyment of their homes; that the stability of community and family life cannot be maintained unless the right to privacy and a sense of security and peace in the home are respected and encouraged; that residential picketing, however just the cause inspiring it, disrupts home, family and communal life; that residential picketing is inappropriate in our society, where the jealously guarded rights of free speech and assembly have always been associated with respect for the rights of others. For these reasons the legislature finds and declares this Article to be necessary. Added by act approved June 29, 1967. L.1967, p. 940.

§21.1-2. Prohibition-Exceptions. It is unlawful to picket before or about the residence or dwelling of any person, except when the residence or dwelling is used as a place of business. However, this Article does not apply to a person peacefully picketing his own residence or dwelling and does not prohibit the peaceful picketing of a place of employment involved in a labor dispute or the place of holding a meeting or assembly on premises commonly used to discuss subjects of general public interest. Added by act approved June 29, 1967. L.1967, p. 940.

§21.1-3. Sentence. Violation of Section 21.1-2 is a Class B misdemeanor.

Amended by P.A. 77-2638, §1, eff. Jan. 1, 1973.

Section added: L. 1967, P. 940.

16. The Illinois Residential Picketing Statute is unconstitutional in that it violates the First and Fourteenth Amendments to the Constitution of the United States in at least the following respects:

- (a) Section 21.1-2 is overbroad in that it completely outlaws most types of peaceful residential picketing without regard to the number of pickets or the manner or time of the picketing, and thus it is not a regulation narrowly drawn to reach only certain specified conduct which impinges on valid state interests, but on the contrary it abridges the freedom of speech and the right of the people peaceably to assemble and to petition for a redress of grievances.
- (b) Section 21.1-2 is an unlawful attempt to regulate the content of speech in that it permits, without restriction, the picketing of (i) a picketer's own residence or dwelling; (ii) a residence or dwelling which is also a place of business; (iii) a residence or dwelling which also is a place of employment involved in labor dispute; and (iv) a residence or dwelling which is "the place of holding a meeting or assembly on premises commonly used to discuss subjects of general public interest," but totally prohibits all other residential picketing, including picketing the residence of a mayor to protect (sic) his failure to take a public position regarding bus-ing.
- (c) Section 21.1-2 is void for vagueness in that a person of ordinary intelligence cannot discern, in many cases, precisely what picketing is proscribed. Be-

sides not giving fair notice, Section 21.1-2 thus also vests law enforcement personnel with the power to define the limits of protected conduct and with unnecessarily broad discretion to make arrests for picketing.

- (d) Section 21.1-2 is a denial of equal protection of the law in that it permits, without restriction, the picketing of (i) a picketer's own residence or dwelling; (ii) a residence or dwelling which is also a place of business; (iii) a residence or dwelling which is also a place of employment involved in a labor dispute; and (iv) a residence or dwelling which is "the place of holding a meeting or assembly on premises commonly used to discuss subjects to general public interest," but totally prohibits all other residential picketing, including picketing the residence of a mayor to protest his failure to take a public position regarding busing.

17. Defendants' enforcement of the Illinois Residential Picketing Statute against plaintiffs and their class prevents plaintiffs and their class, under color of a statute, custom or usage of the State of Illinois, from engaging in peaceful residential picketing to petition regarding racial discrimination, in violation of the First and Fourteenth Amendments to the Constitution of the United States and Section 1983 of Title 42, United States Code.

18. There is an actual controversy between the parties as hereinbefore set forth.

19. Plaintiffs and their class have no adequate remedy at law for the deprivation of their constitutional rights as hereinabove stated. Unless this Court issues an injunction as prayed for, plaintiffs and their class will suffer irreparable harm.

Wherefore, plaintiffs respectfully pray that this Court:

1. Issue a declaratory judgment declaring the Illinois Residential Picketing Statute unconstitutional and void.
2. Issue preliminary and permanent injunctions enjoining defendants from making arrests under, prosecuting under, or in any manner whatsoever enforcing the Illinois Residential Picketing Statute against plaintiffs or the other members of their class.
3. Award plaintiffs their costs, including reasonable attorneys' fees.
4. Grant such further relief as may be appropriate.

One of Plaintiffs' Attorneys
Michael P. Seng
Edward Burke Arnolds, #89
315 South Plymouth Court
Chicago, Illinois 60604
(312) 427-2737

Ellyn A. Hershman
15325 S. Page
Harvey, Illinois 60426
(312) 339-5550

EXHIBIT TO AMENDED COMPLAINT

County of Cook
State of Illinois—ss

AFFIDAVIT

Mark Smith, being first sworn, deposes and says upon his oath:

1. That he is a plaintiff in the case of *Brown, et al. v. Scott, et al.*, 78 C 1105.

2. That he has read the Amended Complaint therein and to the best of his knowledge it is true and correct.

3. That on September 6, 1977, at about 6:15 p.m., he picketed a residence at 3238 S. Union, Chicago, Illinois.

4. That later the same evening he went to the police station at 35th and Lowe in Chicago where he was arrested and charged with disorderly conduct at the police station and with having picketed the residence at 3238 S. Union in violation of *Ill. Rev. Stat.*, Ch. 38, §21.1-2.

5. That on October 18, 1977, he appeared in the Circuit Court of Cook County, Illinois, where he pleaded guilty to the charge of residential picketing and where the charge of disorderly conduct was dismissed.

6. That on the same day he was sentenced to six-months' supervision after a finding of guilty was entered on his guilty plea.

7. He wishes to engage in residential picketing again but he does not do so because he is afraid he will again be arrested and prosecuted for violation of *Ill. Rev. Stat.*, Ch. 38, §21.1-2.

/s/ Mark Smith
Affiant

Subscribed and Sworn to before me
this 4th day of April, 1978

/s/ Della M. Danziger

Notary Public
My Commission Expires October 3, 1981

State of Illinois
County of Cook—ss

IN THE UNITED STATES DISTRICT COURT
For The Northern District Of Illinois
Eastern Division

• • (Caption — No. 78 C 1105) • •

AFFIDAVIT

Vivian Buckhoy, being first duly sworn, deposes and says:

1. She is the chairperson of the Committee Against Racism ("CAR").

2. CAR organized among its members a picket of Mayor Michael A. Bilandic's residence on September 6, 1977, to protest the Mayor's failure to take a public position on the issue of busing.

3. Some of the picketers were arrested for violating the Illinois Residential Picketing Statute and, on October 18, 1977, pleaded guilty to the charges pursuant to a plea agreement whereby disorderly conduct charges would be dropped and the defendants sentenced to supervision.

4. CAR, through its members, did not seek to challenge the Illinois Residential Picketing Statute in the Illinois courts because it was advised that such a challenge would preclude the plea agreement, require a trial and in all probability an appeal, subject the defendants to the risk of substantial fines and jail sentences, and entail prolonged and expensive proceedings.

5. As of October 18, 1977, CAR had no immediate plans to engage in further picketing of the Mayor's residence because at that time, in CAR's opinion, busing was not a

current issue since the school year was well underway, and because of the recent arrests and prosecutions.

6. Subsequently, busing and the Mayor's refusal to take a stand thereon, again became current issues, as readily appears from the newspaper articles attached hereto as exhibits A and B.

7. But for the Illinois Residential Picketing Statute, CAR would organize another picket of Mayor Bilandic's residence to protest his continuing failure to take a public stand on busing.

8. In CAR's opinion, its proposed protest will lose a substantial amount of its effect if it cannot take place prior to the opening of the Chicago Public Schools in September, 1978.

9. The federal complaint challenging the Illinois Residential Picketing Statute was promptly filed by CAR members the very day the first periods of supervision terminated.

/s/ Vivian Buckhoy

Subscribed And Sworn To before me
this 5th day of June, 1978.

/s/ Joan V. Rolek

Notary Public

State of Illinois
County of Cook—ss

IN THE UNITED STATES DISTRICT COURT
For The Northern District Of Illinois
Eastern Division

• • (Caption — No. 78 C 1105) • •

AFFIDAVIT

Joan Raisner, being first duly sworn, deposes and says upon her oath:

1. She is a member of the Committee Against Racism.
2. She has never been arrested or charged under the Illinois Residential Picketing Statute.
3. She did not participate in the September 6, 1977, picket of Mayor Bilandic's home.
4. She will picket the Mayor's home in the future to protest his failure to take a public stand on busing if CAR is allowed to organize such a picket.

/s/ Joan K. Raisner

Subscribed And Sworn To before me
this 5th day of June, 1978

/s/ Joan V. Rolek

Notary Public

State of Illinois
County of Cook—ss

IN THE UNITED STATES DISTRICT COURT
For The Northern District Of Illinois
Eastern Division

* * (Caption — No. 78 C 1105) * *

AFFIDAVIT

David Smith, being first duly sworn, deposes and says upon his oath:

1. He is a member of the Committee Against Racism.
2. He participated in a picket of Mayor Bilandic's residence on September 6, 1977, for which 19 of his fellow picketers were arrested and charged with residential picketing.
3. Affiant engaged in substantially the same conduct to those who were arrested and charged.
4. Affiant was not arrested or charged.
5. But for the threat of arrest and prosecution, affiant would again picket the Mayor's residence for substantially the same reasons he did so on September 6, 1977.

/s/ David L. Smith

Subscribed And Sworn To before me
this 5th day of June, 1978.

/s/ Joan V. Rolek

Notary Public

State of Illinois
County of Cook—ss

IN THE UNITED STATES DISTRICT COURT
For The Northern District Of Illinois
Eastern Division

* * (Caption — No. 78 C 1105) * *

AFFIDAVIT

Finley Campbell, being first duly sworn, deposes and says upon his oath:

1. He is a member of the Committee Against Racism.
2. He participated in a picket of Mayor Michael A. Bilandic's residence on September 6, 1977, to protest the Mayor's failure to take a stand on busing, for which affiant was arrested and charged, along with his wife and 17 other persons, with residential picketing.
3. On October 18, 1977, affiant pleaded guilty to the charge of residential picketing and was sentenced to 6 months' supervision in accordance with a plea agreement whereby disorderly conduct charges also placed against affiant were dismissed.
4. Affiant did not challenge the Illinois Residential Picketing Statute in state court because he was advised that such a challenge could not be maintained if affiant pleaded guilty; that such a challenge would require a trial and almost certainly an appeal; that by going to trial affiant would risk conviction on both charges and sentences substantially in excess of 6 months' supervision; that the trial and appeal were likely to be prolonged and costly; and because as of October 18, 1977, affiant had no plans to engage again in residential picketing.

5. Busing has again become an issue in Chicago and affiant believes Mayor Bilandic has again failed to take a stand on the issue.

6. But for the threat of again being arrested and prosecuted under the Illinois Residential Picketing Statute, affiant would again picket Mayor Bilandic's residence to demonstrate in the Mayor's own neighborhood affiant's concern for the Mayor's failure to exert moral leadership on a neighborhood issue.

7. In affiant's opinion, in order to have full effect such a demonstration must take place before the opening of the Chicago Public Schools in September, 1978.

8. On March 24, 1978, the day affiant's supervision was to terminate, he caused to be filed in federal court a lawsuit challenging the Illinois Residential Picketing Statute but he is not challenging his state conviction in either state or federal court.

/s/ Finley C. Campbell

Subscribed And Sworn To before me
this 5th day of June, 1978.

/s/ Joan V. Rolek

Notary Public

State of Illinois
County of Cook—ss

IN THE UNITED STATES DISTRICT COURT
For The Northern District Of Illinois
Eastern Division

* * (Caption — No. 78 C 1105) * *

AFFIDAVIT

Roy Brown, being first duly sworn, deposes and says:

1. He is a plaintiff in Brown, et al v. Scott, et al, 78 C 1105.

2. On September 6, 1977, he picketed Mayor Michael A. Bilandic's residence to protest the Mayor's failure to take a public position in favor of busing school children.

3. On October 18, 1977, affiant pleaded guilty to a charge of residential picketing which arose from his protest at the Mayor's home and he was sentenced to one-year's supervision pursuant to a plea agreement which also included dismissing a disorderly conduct charge.

4. Affiant did not contest the constitutionality of the Illinois Residential Picketing Statute in state court because he was informed that he could not do so and plead guilty; that a trial and appeal would be lengthy and expensive; that he risked two convictions and jail or fines if he went to trial and lost; and because he had no plans to engage in residential picketing again.

5. Affiant is not challenging his residential picketing conviction in any court.

6. Mayor Bilandic still has not publicly taken a position in favor of busing and busing has again become an issue in Chicago.

7. But for the fact that affiant is still on supervision, and the threat of having his supervision revoked and again being arrested and prosecuted for violation of the Illinois Residential Picketing Statute, affiant would again picket the Mayor's residence to protest in the Mayor's own neighborhood his lack of leadership on a neighborhood issue.

8. In affiant's opinion, in order for such a picket to have effect it must take place before the opening of the Chicago Public Schools in September, 1978.

/s/ Roy L. Brown

Subscribed And Sworn To before me
this 5th day of June, 1978.

/s/ Joan V. Rolek

Notary Public

Condo owners, janitors in job dispute

Bill Barnhart

If you owned a home and you got a letter from the Janitors Union saying you must employ a union janitor, you might be a little upset. You'd be even more upset if union pickets showed up around your home the next day.

But that's the situation Chicago area owners of condominiums and co-operative apartments face with Local 1 of the Janitors Union.

On the other hand, Chicago area janitors face loss of bargaining power, reduction of wages and the elimination of jobs in the transition of their places of employment into buildings controlled by independent, cost-conscious, and sometimes anti-union condominium and co-op boards.

RECENT EFFORTS by some condo and co-op owners to resist the union have resulted in prolonged picketing of a few condominiums and co-operatives by the janitors in Dearborn, Forest Park and the Hyde Park neighborhood of Chicago. Picketing costs the union an estimated \$25 per day per man.

To help resolve this problem, an area-wide

committee of condo and co-op owners was formed last weekend after a meeting of owners in Hyde Park. The 20-member committee from Chicago and suburbs will consider these questions:

• Should Chicago area condo and co-op owners unite to form a collective bargaining unit for negotiations with the Janitors Union?

• If such a unit is formed, what type of contractual relationship with the janitors should be sought and who would be bound by the contract?

Claire Rosen, attorney for Local 1, said, "We're sincerely hoping that they will get a group together that we can sit down with and discuss their problems."

THE ISSUES regarding union janitors in condos and co-ops revolve around two disputes: the jurisdiction of the union and the services and costs of union janitors. As more condos and co-ops are built or converted from rental status, and as the owners of condos and co-ops scrutinize more closely the costs of maintaining their buildings, these issues become increasingly important.

for the janitors and the owners.

More than four years ago, the Chicago Real Estate Board withdrew as a bargaining agent for building owners. In its absence, Chicago area apartment landlords and their management agents have negotiated on an ad hoc basis with the janitors. They are loathe to do anything that might cause a metropolitan janitor strike.

"Real estate management companies are not in a position to rise up and do battle with the union," said one Chicago property manager. "We have always gotten along very well with the union. If anybody does something for the condominium owners, its going to have to be the condominium owners themselves."

On the jurisdictional question, the Janitors Union has asserted a right to install or retain a union janitor in condominiums and co-op buildings.

"The union takes the position that if a person who worked there was a union janitor, they have established the right to be the representative of the person who works in the building forever," said William Sharp, Chicago attorney who has represented

condo and co-op owners.

THE PRESENT contract states, "Wages for employees in co-operatively owned buildings and condominium apartment buildings shall be equivalent to wages applicable to rental buildings of the same general type for the same general area."

"Economics is the thing that fuels this issue for you because the janitor's cost is usually the second most expensive item in your budget," Sharp told the Hyde Park meeting. "Economics fuels the issue for Local 1, also. They've lost a lot of membership, and they are under economic pressure that's the same as the cost issue to you."

The power of the union to assert jurisdiction over a residential building, regardless of its form of ownership, is not a matter of law but a matter of the union's power to strike said Clifford Treese, chairman of the South Side Condominium and Co-operative Owners Association.

"Jurisdiction is something that every union asserts, but the only way you get it is through muscle," he said. Treese's condominium building in Hyde Park settled 11 months ago.

Turn to Page 86

of picketing by the union last year by having one of its owners join the union and pay dues. Then the building was free to hire whomever it wished as the "janitor's helper."

IN 1971, the National Labor Relations Board declined to enter a dispute between Florida condo owners and the Service Employees International Union on the grounds that a condominium wasn't a business. But condos are business as far as the Janitors Union is concerned.

In 1967, the Illinois Legislature outlawed the picketing of residences saying "it disrupts home, family and communal life" and is "inappropriate in our society." But the legislature granted exceptions "when the residence is used as a place of business" or is "a place of employment involved in a labor dispute." This exception is what the union has hung its picket signs on.

The union has been picketing the 43-unit Diplomat Condominium in Des Plaines since August. Bert Paley, one of the unit owners, said the picketing began after the condo board dismissed the management firm that had been brought in by the developer. When the management firm was dismissed, so was the janitor the management firm had employed.

"We have maintained the building much better than it was before," Paley told the Hyde Park meeting. "We own our own homes. If we had 43 homes down the street the janitors would have no jurisdiction whatsoever."

THE SMALL amount of picketing that has occurred recently has been peaceful, although some owners report acts of vandalism. The biggest problem is getting rid of garbage if union garbage truck drivers won't cross the picket line.

Regarding the costs and services of janitors, condo and co-op owners argue that they shouldn't be forced to pay under a contract designed to cover an employee who performs vastly different services than they require. Such chores as maintenance within the units, cleaning and showing of apartments and even seasonal installation of storm windows and screens often are not performed by janitors in condos and co-ops.

INDEPENDENT
JANITORS
LOCAL 100